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SUBJECT: SWAZI POLICE UNION LOSE IN SUPREME COURT

REF: 07 MBABANE 0530

¶1. SUMMARY: On May 23, Swaziland's Supreme Court upheld the High Court's ruling denying police and correctional officers union the right to register as a union. The unregistered Swaziland Police Union (SWAPU) and Swaziland Correctional Officers Union argued they have the right to form and register a union, while the government argued that current laws prohibit the formation and registration of any unions within disciplined forces (army, police, and correctional services). SWAPU was formed in February 2007 by junior officers unhappy with the pay scale and working conditions. This ruling marks the end of the domestic legal process for SWAPU. END SUMMARY

¶2. On May 23, the Swazi Supreme Court upheld the High Court ruling banning the registration of unions within the disciplined forces. SWAPU argued that the Industrial Relations Act conflicted with provisions in the Constitution guaranteeing the right to freedom of expression and association. The court did acknowledge lack of bargaining power of junior officers, inability to force improvements in salaries and working conditions, and the inconsistencies in the legislation. The court concluded its decision by stating Parliament should urgently reconsider the conflicting articles of legislation.

RECENT DEVELOPMENTS

¶3. On May 30, local media reported that police were to receive a 15 percent pay raise retroactive to April 1, helping to close the wage gap between senior and junior officers. SWAPU President Buhle Dlamini, a former junior police officer who says he was dismissed for his involvement in the union, said the pay raise does not meet the needs of junior officers. Their other grievances include: poor housing, unreliable communications equipment, poor working conditions for officers assigned to security details, the lack of life insurance, and lack of safety equipment such as bullet-proof vests. According to the union there is tremendous solidarity and support among junior officers regarding union demands, but most fear dismissal from the force if associated to it publicly. The union has essentially given up any hope of gaining the right to strike but is focusing on recognition as a collective bargaining body.

WAY FORWARD

¶4. With no further domestic legal options, SWAPU wants to use the Southern Africa Development Community (SADC) tribunal to achieve its goals. The SADC tribunal is responsible for ensuring member state compliance with SADC laws. The court's rulings are binding on member states. SWAPU believes the tribunal would be impartial and more likely to reach a favorable judgment. A lack of funding is the most serious challenge to pursuing this channel. Another option is to turn local police staff associations into a quasi-union which could negotiate on behalf of junior officers and secure collective agreements.

¶5. COMMENT: The two most likely strategies for the union to achieve its goals are through the SADC tribunal and the linking of police associations. Many of the union executives are running for parliament in upcoming elections, in the hope of working from the inside to change legislation that prevents them from formally unionizing the police force. The parliamentary route is the most challenging, and it is highly unlikely that union leadership would be able to make any progress in the absence of greater political reform, such as the recognition/inclusion of political parties and a

constitutional review. END COMMENT

PARKER